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**JAN 24 2007**

**OFFICE OF PETITIONS**

In re Application of  
Donald M. Yale  
Application No. 09/255,277  
Filed: February 23, 1999  
Attorney Docket No. 9902

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)<sup>1</sup>, filed August 2, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on April 3, 2001, for failure to submit within three months, a proper and timely response to the Final Office action mailed on January 2, 2001. An amendment filed May 3, 2001 with a one month extension of time request did not place the application in condition for allowance. An advisory action was mailed May 4, 2001. No response having been timely mailed, a Notice of Abandonment was mailed August 9, 2001.

In response to the Final Office Action mailed January 2, 2001, petitioner has submitted a continuation-in part application pursuant to 37 CFR 1.53(b), application no. 11/497,883, filed August 2, 2006.

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<sup>1</sup>Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

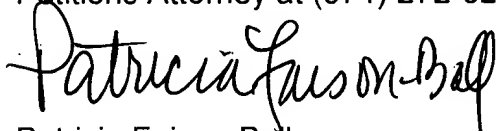
(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuation application no. 11/497,883 filed August 2, 2006, pursuant to the provisions of 37 CFR 1.53(b).

Additionally, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This matter is being referred to Technology Center 3611 for processing of the continuation application filed August 2, 2006.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink, reading "Patricia Faison-Ball". The signature is written in a cursive, flowing style with a large initial "P".

Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions